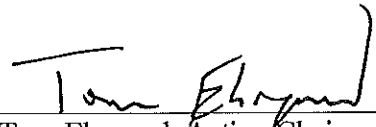


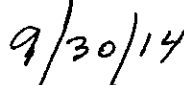
Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00036, to modify conditions of ZBA FY1983-107 to increase the number of vehicles parked on the property from three to four, at 453 Old Montague Road (Map 2A, Parcel 27, R-O Zoning District), subject to the following conditions:

1. Except for parking, all other relevant conditions of ZBA FY 1983-107 remain in effect.
2. The expanded driveway/parking area shall be constructed substantially in accordance with the plan, prepared by Taylor Davis Landscaping Co, dated 3/28/14, and shall be in built in compliance with the design standards of Section 7.101. The improved driveway surface shall be constructed by August 15, 2014.
3. There shall be no more than four cars parked on the property on a regular basis.
4. The second parking area on the north side of the property, as shown on the Town GIS Parking Plan, shall be removed. That space shall be blocked by the installation of boulders or a small fence and the area be re-graded, loamed and seeded with grass or other vegetation. Said work shall be completed no later August 15, 2014 and shall be inspected by the Building Commissioner prior to completion.
5. Cars may be parked only on the driveway. There shall be no parking on a lawn or unimproved areas, and the owner shall prohibit tenant vehicles from parking on Old Montague Road.
6. The expanded driveway is subject to the necessary Curb Cut/Driveway Permit from the Department of Public Works.



Tom Ehrgood, Acting Chair
Amherst Zoning Board of Appeals



DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Andrew and Ming-Jung Coler, 12 Bayberry Lane, Amherst, MA 01002

Date application filed with the Town Clerk: May 15, 2014

Nature of request: For a Special Permit to modify conditions of ZBA FY1983-107 to increase the number of vehicles parked on the property from three to four

Address: 453 Old Montague Road (Map 2A, Parcel 27, R-O Zoning District)

Legal notice: Published on May 28, 2014 and June 4, 2014 in the Daily Hampshire Gazette and sent to abutters on May 29, 2014

Board members: Tom Ehrgood, Mark Parent, Yuri Friman

Staff members: Jeff Bagg, Senior Planner

Submissions:

- Application form filed with the Town Clerk on May 15, 2014
- Driveway plan, prepared by Taylor Davis Co, dated 3/28/14
- Town GIS plan, dated April 2, 2014
- ZBA FY1983-107, with the approved plans
- Parking Plan, prepared by the Planning Department, dated June 11, 2014

Site Visit: June 11, 2014

Tom Ehrgood, Mark Parent, and Yuri Friman observed the location of the property along the east side of Old Montague Road. The existing condition of the driveway was noted as being degraded and crumbling in many areas, with a portion consisting of old pavement and other areas TRG and/or gravel. The approximate width of the proposed new driveway was noted.

Public Hearing: June 11, 2014

In connection with the Town's Rental Permit program, the applicant, Andrew Coler, is seeking to modify Condition #1 which allows parking for three cars. The request is to expand the existing driveway to accommodate four vehicles.

Mr. Coler explained that he wants to widen the driveway to 18 feet and pave it with bituminous blacktop. He noted that he already had an estimate and plan from Taylor Davis to complete the work. The submitted plan shows that the driveway will be widened 18 feet to provide four, 9 x 18 foot parking spaces. The plan shows that there would be four stacked spaces.

The following requirements under Article 7 appear to be met, unless otherwise noted:

7.0000 - *Two (2) parking spaces for each dwelling unit.* The proposal requests an increase in the number of vehicles from three to four. This would meet the minimum requirement for two units.

7.0001 – *Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101); 7.101- Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements. The proposal includes upgrading and expanding the existing parking area and will be paved in bituminous blacktop. As noted in the plan, the proposal includes:*

- Removal of existing asphalt
- Evaluation of the existing base material
- Removal of existing tree roots
- Creation of pitch for runoff and drainage
- Finished coat consisting of bituminous blacktop

Based on this plan, the Board finds that the new driveway parking area will be constructed in accordance with Section 7.101.

7.0002 - *In any residential district, there shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only. Where five (5) or more cars are regularly parked on a given property in association with a residential use, parking in the front setback shall be designed so as to ensure free passage at all times for regular users and unrestricted access for emergency vehicles. As shown on the Parking Plan, dated June 11, 2014, the proposal provides for parking for two vehicles in the front setback.*

7.104- Dimensions, Marking & Delineation - *The area of all parking areas shall be included in the calculation of maximum lot coverage. Based on the calculations shown on the Town GIS Parking Plan, prepared by the Planning Department, the approximate total lot coverage calculation is 9.3% which is less than the maximum allowed in this district of 25%.*

Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. The proposed expanded driveway/parking area will be blacktop pavement, sufficient for delineation. The plan indicates that the driveway will be pitched to provide for drainage.

Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. The proposal will provide for four 9 x 18 parking spaces. The Board acknowledged that the parking spaces are stacked, but determined that the width of the driveway was sufficient and that the arrangement was preferred over parking on the lawn area adjacent to the driveway.

The Board finds that the other provisions of Article 7, such as lighting, screening, and preventing vehicles from backing into a street, are triggered by parking areas containing five or more parking spaces and do not apply in this case.

Complaints/Violations:

Since Inspection Services began monitoring complaints and/or violations in May 2012, none have been found for this property.

The following members of the public spoke regarding this proposal:

- James Wald, 454 Old Montague Road, stated that he supports this application. He described his observations and concerns about tenants parking their vehicles in the road and on the grass area to the north of the driveway. He asked the Board to ensure that tenant vehicles will no longer be parked in the road or on the lawn.

The Board discussed the parking area to the north and how to prevent it parking in this area in the future. The Board determined that some type of blocking or barrier to prevent parking in the area or the lawn, such as boulders or a fence. The Board determined that a condition will be included requiring the s the owner to prohibit tenants from parking in the street.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.* The proposal provides parking for four vehicles on a paved driveway. The stacking of four vehicles in the driveway and two within the setback are compatible with the neighborhood. The conditions of the permit require elimination of parking on the grass by placement of a sufficient physical barrier (i.e., large boulder) to prohibit vehicles from parking on the street.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The proposal includes a properly constructed paved driveway with a design that will direct drainage away from the street.

10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The proposal provides for two parking spaces per unit on a paved surface to be constructed in accordance with the design requirements of Article 7.*

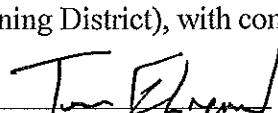
10.387 - *The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.* The proposal involves a stacked arrangement which will require vehicles to back onto Old Montague Road. The Board finds that given the relative low level of traffic on Old Montague Road, the arrangement provides for convenient and safe vehicular movement.

10.398- *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The proposal provides for a more accurate depiction of existing parking conditions on this property which is important to the Town relative to the Rental Permit program.

Zoning Board Decision

Mr. Parent MOVED to approve the application with conditions. Mr. Friman seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00036, to modify conditions of ZBA FY1983-107 to increase the number of vehicles parked on the property from three to four, at 453 Old Montague Road (Map 2A, Parcel 27, R-O Zoning District), with conditions.


TOM EHRCOOD


MARK PARENT


YURI FRIMAN

FILED THIS October day of 1st, 2014 at 4:11 p.m.
in the office of the Amherst Town Clerk Andrea G. Bungen
TWENTY-DAY APPEAL period expires, October 21, 2014.
NOTICE OF DECISION mailed this 3 day of October, 2014
to the attached list of addresses by Jeffrey R. Bunge, for the Board.
CERTIFICATE OF NO APPEAL issued this _____ day of _____, 2014.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2014,
in the Hampshire County Registry of Deeds.

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Andrew and Ming-Jung Coler

For A Special Permit to modify conditions of ZBA FY1983-107 to increase the number of vehicles parked on the property from three to four

On the premises of 453 Old Montague Road
At or on Map 2A, Parcel 27, R-O Zoning District

NOTICE of hearing as follows mailed (date) May 29, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated May 28, 2014 and June 4, 2014

Hearing date and place June 11, 2014(Town Hall)

LEGAL NOTICE
The Amherst Zoning Board of Appeals will meet on *Wednesday, June 11, 2014, at 6:30 P.M. in the First Floor Meeting Room, Town Hall, to conduct the following business:
PUBLIC HEARINGS:
ZBA FY2014-00035 - Jean Bleeker - For a Special Permit to change use of the property from a supplemental apartment to a non-owner occupied Converted Dwelling maintaining two units at 560 South East Street (Map 17D, Parcel 11, R-N Zoning District)
ZBA FY2014-00036 - Andrew and Ming Coler - For a Special Permit to modify conditions of ZBA FY1983-107 to increase the number of vehicles parked on the property from three to four, at 453 Old Montague Road (Map 2A, Parcel 27, R-O Zoning District)
ZBA FY2014-00037 - Jagtar Singh - For a Special Permit to modify Condition #2 of ZBA FY1995-51 to allow a change to the approved parking plan to reconfigure the required four parking spaces, at 27 South Whitney Street (Map 14B, Parcel 145, R-G Zoning District)
ERIC BEAL, CHAIR
AMHERST ZONING BOARD OF APPEALS
3285742 May 28, June 4

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2014-00036, to modify conditions of ZBA FY1983-107 to increase the number of vehicles parked on the property from three to four, with conditions.

Tom Ehrgood – Yes Mark Parent – Yes Yuri Friman – Yes

DECISION: APPROVED with conditions

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Andrew and Ming-Jung Coler
Address 12 Bayberry Lane
City or Town Amherst, MA 01002

Identify Land Affected: 453 Old Montague Road
(Map 2A, Parcel 27, R-O Zoning District)

By the Town of Amherst Zoning Board of Appeals affecting the rights of the owner
with respect to the use of the premises on

453 Old Montague Road Amherst
Street City or Town

The record of title standing in the name of
Andrew Coler and Ming-Jung
Name of Owner

Whose address is 12 Bayberry Lane Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 5209 Page 322
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2014-00036
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

(Board of Appeals) Chairman

(Board of Appeals) Clerk

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____

Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
2A-18	MONTAGUE RD	W D COWLS INC		134 MONTAGUE RD, P.O. BOX 9677	NORTH AMHERST, MA 01059-9677
2A-46	373 MONTAGUE RD	THARP, KENTON	WESTFALL, DIANE A	371 MONTAGUE RD	AMHERST, MA 01002
2A-23	451 MONTAGUE RD	WING, MARY A		451 MONTAGUE RD	AMHERST, MA 01002
2B-2	483 MONTAGUE RD	REED, REBECCA V TRUSTEE		483 MONTAGUE RD	AMHERST, MA 01002
2A-19	496 MONTAGUE RD	ELLIS, JAMES D & FARRINGTON, PATRICIA		496 MONTAGUE RD	AMHERST, MA 01002
2A-36	OLD MONTAGUE RD	GITTLEMAN, NANCY K		410 OLD MONTAGUE RD	AMHERST, MA 01002
2A-42	OLD MONTAGUE RD	TOWN OF AMHERST HIGHWAYS		TOWN HALL	AMHERST, MA 01002
2A-55	390 OLD MONTAGUE RD	GITTLEMAN FLORENCE	C/O NANCY GITTLEMAN	410 OLD MONTAGUE RD	AMHERST, MA 01002
2A-395-38	395 OLD MONTAGUE RD	SCHLOERB, F PETER		PO BOX 9623	NORTH AMHERST, MA 01059
2A-397-38	397 OLD MONTAGUE RD	MILLER, JAMES D & CARRUTHERS, MIRIAM M		P.O. BOX 363	AMHERST, MA 01004-0363
2A-56	410 OLD MONTAGUE RD	GITTLEMAN, NANCY K		410 OLD MONTAGUE RD	AMHERST, MA 01002
2A-57	416 OLD MONTAGUE RD	POWERS, DAVID S & SALLY I		16 HARKNESS RD	PELHAM, MA 01002
2A-58	420 OLD MONTAGUE RD	GITTLEMAN, NANCY K		410 OLD MONTAGUE RD	AMHERST, MA 01002
2A-22	444 OLD MONTAGUE RD	MARRA, ALAN A & MAXINE B TRUSTEES		444 OLD MONTAGUE RD	AMHERST, MA 01002

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
2A-27	453 OLD MONTAGUE RD	COLER, ANDREW R & MING-JUNG C		12 BAYBERRY LN	AMHERST, MA 01002
2A-37	454 OLD MONTAGUE RD	WALD, JAMES J & JANE H		454 OLD MONTAGUE RD	AMHERST, MA 01002
2A-13	462 OLD MONTAGUE RD	ANDERSON CONNOR, SHARI & MARY		462 OLD MONTAGUE RD	AMHERST, MA 01002
2A-12	468 OLD MONTAGUE RD	DUNN, JOHN R JR & ROSEMARY C		100 UNIVERSITY DR	AMHERST, MA 01002
2A-39	474 OLD MONTAGUE RD	SCOTT, ANSON B JR & CAROLE B		1409 CLARIDGE DR	BEVERLY HILLS, CA 90210